



STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

LAND USE COMMISSION

P.O. Box 2359
Honolulu, Hawaii 96804-2359
Telephone: 808-587-3822
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June 30, 2006

B. Martin Luna, Esq.
Blaine J. Kobayashi, Esq.
Carlsmith Ball LLP
One Main Plaza, Suite 400
Wailuku, Hawaii 96793-1691

Dear Messrs. Luna and Kobayashi:

Subject: LUC Docket No. A06-766/Towne Development of Hawaii, Inc.; Endurance Investors, LLC; and Association of II Wai Hui LP

This is to acknowledge receipt of the following documents filed on June 2, 2006:

- 1) Petition for District Boundary Amendment (Petition);
- 2) Verification;
- 3) Exhibits "1" - "15";
- 4) Certificate of Service; and
- 5) Environmental Impact Statement Preparation Notice (EISPN).

We also acknowledge receipt of the following documents filed on June 6, 2006:

- 1) Notarized Affidavit of Mailing;
- 2) Exhibit "A" (Notification of Petition Filing) and Exhibit "B" (Mailing Lists); and
- 3) Certificate of Service.

We understand that the Petition proposes the reclassification of lands from the State Land Use Agricultural District to the State Land Use Rural and Urban Districts. We further understand that the EISPN was prepared to address the requirements of Chapter 343, Hawaii Revised Statutes, to the extent that the proposed action under the Petition involves the use of State and County lands and a General Plan amendment.

With this understanding, the Petition shall not be deemed a proper filing and accepted for processing until the Land Use Commission (LUC) accepts a Final Environmental Impact Statement and the other petition content requirements are met pursuant to §15-15-50, Hawaii Administrative Rules (HAR).

As such, we will defer our comprehensive review of the Petition for completeness at this time. However, we would like to point out the following areas that should be addressed as part of the technical requirements for all petitions:

- 1) In accordance with §15-15-48, HAR, the petitioner shall serve copies of the Petition to all persons with a property interest in the subject property (i.e., Petition Area) as recorded in the county's real property tax records at the time the Petition is filed. As the owner of TMK: 3-5-02: 3, Wailuku Kuikahi LLC should be served with a copy of the Petition, and an amended Certificate of Service and Affidavit of Service of Petition for District Boundary Amendment (Affidavit of Service) should be filed. According to the Maui County parcel history sheets for TMK: 3-5-02: 3, Wailuku Agribusiness Co., Inc. (WACI), and the County of Maui also appear to have a property interest in said parcel. If, in fact, WACI and the County currently have a property interest, WACI and the applicable County agency should be served with a copy of the Petition, with such service reflected in the amended Certificate of Service and Affidavit of Service.

We further note that both Exhibit "A" to the Correction Quitclaim Deed (Exhibit "1") and the Limited Warranty Deed (Exhibit "2") list several Royal Patent Grantees and Land Commission Awardees. Exhibit "A" to the latter document also references a non-exclusive easement granted to Hawaiiana Investment Co., Inc., and a sewerline, waterline, and drainage easement granted to the County of Maui (this may be the nature of the County's interest noted above). Clarification should be provided as to the extent of their property interest, and whether it is sufficient to warrant service of the Petition upon them.

- 2) In accordance with §15-15-50(c)(3), HAR, the applicable tax maps that identify the area under the Petition should be provided. We request that one full size (i.e., 36" x 24", border to border) tax map with the subject property clearly identified be provided. The remaining copies may be a reduction of the full size map but should still include border to border coverage.

There appears to be discrepancies in the acreage of the parcels constituting the subject property as cited on the tax map and the Petition/EISPN. For parcel 2, the tax map reflects a larger acreage than what is identified in the Petition/EISPN. For parcel 3, the situation is reversed; the tax map reflects a smaller acreage.

In addition, based on the depiction of the subject property on the various maps in the EISPN, it appears that a water tank site that is located on TMK: 3-5-02: 3 has been excluded from the subject property. If so, only a portion of said parcel would be involved, requiring, among other things, the provision of a metes and bounds map and description of the subject property that is prepared by a registered professional

B. Martin Luna, Esq.
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June 30, 2006
Page 3

surveyor.¹ The tax map key description of the subject property would also need to be amended accordingly.

Finally, we request that the boundary separating the areas to be reclassified to the Rural and Urban Districts be delineated in metes and bounds. As this boundary does not appear to be based on the boundaries of the respective parcels, we believe that the record should be clear as to its specific location relative to the parcels and to the subject property as a whole.

- 3) In accordance with §15-15-50(c)(14), HAR, a description of the manner in which the petitioner addresses the housing needs of low income, low-moderate income, and gap groups should be provided. We acknowledge the petitioner's statement to work closely with the County of Maui Department of Housing and Human Concerns regarding the affordable housing requirements. However, we request that additional information be provided describing the petitioner's specific proposal to provide affordable housing for these income groups.

We have no further comments to offer at this time. Please be advised that in the event a notice of intent to intervene is filed with the LUC pursuant to §15-15-52(b), HAR, the Petition should be served upon the potential intervenor and an affidavit of petitioner or his agent attesting to his compliance with §15-15-48(b), HAR, should be filed.

Your attention to these matters is requested. Please feel free to contact Bert Saruwatari of my office at 587-3822, should you require clarification or any further assistance.

Sincerely,


ANTHONY J. H. CHING
Executive Officer

c: Christopher L. Lau
Office of Planning
County of Maui Department of Planning

¹ In addition to the format requirements specified for the tax map, the metes and bounds survey map should be provided in .pdf, .jpg, .tiff, or .png format on CD-ROM or flash drive.